Aiyar urged that it was necessary to make the use of unauthorised weights and measures itself an offence without proof of fraud. He therefore moved that the principle of the Bill be affirmed.

Seconded by Mr. Mahadeva Aiyar.

Mr. Sesha Aiyar observed that, in his opinion, it would be dangerous on principle to constitute an act an offence when it had been done without wrongful intent or knowledge. Since *mens rea* had to be established in the case of all criminal acts, Mr. Sesha Aiyar said that it would be neither expedient nor consonant with justice to dispense with that requirement in the case of offences against the law relating to weights and measures.

Mr. Velu Pillai agreed in the view expressed by Mr. Sesha Aiyar, and said that the word "knowingly" occurring in the penal clause of the Regulation ought, in his opinion, to be retained.

Mr. Subba Aiyar replied that the cases of fraudulent use of weights and measures were covered by the provisions in the Penal Code relating to weights and measures, and that the question of *intention* should not at all arise in the case of offences under the Weights and Measures Regulation. He said that, in order to secure uniformity in the use of weights and measures throughout the State, some punishment, however light, had to be provided for their unauthorised use, apart from the question of intention.

The President observed that the Members were not divergent in opinion with regard to the principle of the Bill, *i. e.*, to amend the existing Regulation in such a way as to enable the Government to enforce the use of a uniform system of weights and measures, and suggested that the provisions of the amending Bill might be considered later on, its principle being then affirmed.

The Council resolved accordingly.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Sesha Aiyar, Subrahmanya Aiyar, Richardson, Mahadeva Aiyar and the Mover, to report within two months.

Seconded by Mr. Vieyra.

Carried.

THE CHRISTIAN SUCCESSION BILL.

Mr. Subba Aiyar, in presenting the report of the Select Committee on the Christian Succession Bill, said as follows:—

"Sir,

I beg to present the report of the Select Committee on the Christian Succession Bill. The report of the Select Committee explains at some length the reasons for making the modifications proposed by them. Yet, I shall make a few remarks concerning some of the provisions of the Bill.

While introducing the Bill on the 5th June 1913, I have explained at some length the various provisions of the same. Since then, representations have been received, some supporting the Bill, and the others objecting to some of the provisions of the Bill. The Christians other than the Syrians approve of the Bill. A large meeting of the Latin Christians of Central Travancore was held on the 15th February 1914, and a memorial has been submitted to Government. In the memorial, they urge that "in framing the draft Bill the Committee have adopted the policy of 'give and take' by which each section has to sacrifice, for the sake of uniformity, a little of the less important customs. Examining this Bill in the light of this policy, we observe that we have *to give* more than we have to take. Yet we accept the Bill for the sake of an *All-Christian Law*".

We may then fairly take it that the Latin Christians are in entire accord with the Bill.

The deputation which waited upon the Dewan to present the above-said memorial say: — "We understand from the Christian Committee's report that there are certain other communities, such as Arasars and certain classes of Protestant Christians whose usages are exactly like ours. They also will, we are sure, be prepared to accept the present Bill. If public utterances and the opinions of prominent men belonging to any community are taken as guide, the South Travancore Christians also appear to be willing to accept the present Bill as a workable compromise." No opposition has been raised by any of the above-said communities. Mr. P. Sathianesan who has submitted a representation also approves of the main provisions of the Bill. Thus then, it may be fairly taken that all the communities affected by the Bill excepting the Syrians approve the Bill.

As for the Syrian Christians, some are for the Bill as originally framed, and others are against many of the provisions.

LIBRARY ARCHIVES Kerala Legislative Assembly

The main points on which the Bill is objected to are with reference to the rights of—

(1) a daughter ;

(2) a widow ;

(3) a mother ;

(4) paternal great-grandfather and his lineal descendants to succeed in preference to the maternal relations of the intestate ; and

(5) a donor and his family to get back the Streedhanom property given to a daughter in case the daughter's child dies a minor without leaving any issue.

These points received the careful consideration of the Committee, and as far as possible were conceded by them. They may be considered in their order.

With reference to the daughter, the suggestion is that she is entitled only to Streedhanom and not to any particular share of the property of the father. The difficulty is in fixing the amount of Streedhanom. Mr. Kuruvila Varkki had sent up many amendments to the Bill before the Select Committee met. These amendments were sent to the representatives of the various sections of the Syrian Christian community. Mr. Varkki's amendment with reference to the daughter is that she should get one-fourth of the share of the intestate or Rs. 3,000, whichever is less. Nine out of the ten Ecclesiastical heads of Syrian Christians have given their approval to this suggestion. There was a meeting of respectable Christians at Trivandrum under the presidency of Mr. A. M. Muthunayagom Pillai, and they have approved the suggestion. The Christian Members of the last Sri Mulam Popular Assembly are in entire accord with the same. The only opposition to the measure is from the Most Rev. Titus Mar Thoma, Metropolitan of the Mar Thoma Syrian Church. He recognises the right of Streedhanom, but is against the fixing of any amount in the Bill. His suggestion is:—"If however it be deemed that the daughters might suffer in consequence of the misconduct, misdemeanour or incapacity of the brothers, and therefore the Bill should contain provision to protect their interests, I would make the following suggestion. 'The marriage of the sister should be arranged and the amount of dowry fixed by no less than three of her nearest blood relations on the paternal and maternal sides, on consultation with the bridegroom's guardians and the clergyman of the Parish or the head of the congregation to which she belongs and in the presence of the Yogam, making the amount of Streedhanom a charge on the father's estate.' Their consent must hold good as an agreement made by the girl's father or brother in person. A provision to this effect in the Bill, while leaving the custom undisturbed, will remove all misgivings and produce the desired effect."

I need hardly state that it is not possible to give legal recognition to such a proposal. The Select Committee accepted the view of all the others and agreed to Mr. Varkki's amendment with the modification that the maximum amount of Streedhanom was raised to Rs. 5,000. This was in view of the fact that the amount of Streedhanom is ever increasing and the raising of the same above Rs. 5,000 will only affect the well-to-do classes. Since the Select Committee's report representations have been received from many. The Christian Graduates resident in Trivandrum, though they suggest some amendments on other matters, have nothing to say against the provision with regard to the daughter. Many others agree to this amendment. The only objection received in reference to this matter is a petition signed by some Christians and they are against making any provision. If a provision is necessary, they would adopt the suggestion of the Most Rev. Titus Mar Thoma, Metropolitan of the Mar Thoma Syrian Church, referred to above.

Though Mr. T. K. Velu Pillai has given notice of many amendments, no amendment is before the Council about the rights of a daughter as revised by the Select Committee.

Passing on to the rights of a widow and a mother, I do not think it necessary to say anything now as I propose dealing with the same when Mr. Velu Pillai moves his amendments.

Regarding the paternal great-grand-father's rights to succeed in preference to the maternal relations of the intestate, it has to be observed that the order of succession is given in Section 25 of the Bill. As observed by the Latin Christian deputation, this Section is the pivot of the whole Bill. The order of succession has to be one which will apply for all the various communities, and cannot be a different one for the different communities. Among the Latin Christians and others, there is no distinction between males and females, and paternal and maternal relations of the same degree. They have yielded by allowing the maternal relations to be put off after the paternal grand-father. They are not prepared to yield any further. The case of a paternal great-grand-father and his descendants succeeding to the estate of a deceased is very rare. By omitting the paternal great-grand-father and his descendants, no serious hardship will accrue to the Syrians. The objection is only sentimental. I am glad to observe that no amendments are before the Council touching the matter. We may therefore fairly take it that no modification is necessary on this point.

LIBRARY ARCHIVES Kerala Legislative Assembly

With reference to the other matters referred to at the outset, I will defer my remarks until the amendments are moved.

The Bill has been before the public for a very long time, and the Select Committee's report and the revised Bill have also been published many months ago. In these circumstances, I beg to move that the Bill be taken up for consideration now."

Seconded by Mr. Varkki.

Mr. Parameswaren Pillai said that there was a desire among certain Christian inhabitants of Quilon that the consideration of the Select Committee's report might be put off for some time more, and he accordingly moved that the consideration of the Bill be postponed.

The motion fell through for want of seconding, and the Bill was taken up.

Section 4.

Mr. Velu Pillai said that it was desirable that all orders passed by the Government under Section 4, whether extending the provisions of the Regulation to, or exempting from the operation of such provisions, any individual or the members of any race, sect, etc., were published in the Gazette. He therefore moved that the words "of revocation" occurring in the last Clause of the Section be deleted.

Seconded by Mr. Varkki.

Carried.

Section 9.

Mr. Sesha Aiyar moved that the last two sentences of the Section be made two distinct paragraphs of the same Section.

Seconded by Mr. Kuriyan.

Carried.

Section 10—Para. 2.

Mr. Sesha Aiyar moved that the words "the reckoning shall be made" be substituted for the words "it is proper to reckon" in line 2 of para 2 of Section 10, and that the words "or ancestor" be added after the word "stock" at the end of the same line.

Seconded by Mr. Subba Aiyar.

Carried.

Section 11—Para. 2.

Mr. Sesha Aiyar moved that the words "grand" be substituted for the word "great", occurring in the expressions "great-uncle's son" and "great-great-uncle" in line 1 of para. 2 of Section 11.

Seconded by Mr. Mahadeva Aiyar.

Carried.

Section 12.

Mr. Vieyra moved that the word "have been or" be inserted between the words "who" and "are", occurring in line 1 of Section 12.

Seconded by Mr. Sesha Aiyar.

Carried.

Section 13.

Mr. Velu Pillai moved that the following be added as an Exception to Section 13, in conformity with the existing practice of the community, especially of the Syrian Christians :—

"*Exception.*—The Streedhanom or any property inherited by a minor through the mother shall devolve on the minor's maternal relatives, if the minor dies leaving no lineal descendants and before attaining majority."

Mr. Varkki, in seconding Mr. Velu Pillai's motion, said as follows :—

"By the amendment proposed, an exception is sought to be introduced to the general rule laid down in the Section. The Members of this Council are aware that, from the start, there has been opposition and objection to the adoption of the general rule contained in this Bill, only inasmuchas it interfered with the long-established customs and usages of the community. The custom obtaining among the large majority of the Christians, especially the Syrians, is that, if a child dies leaving Streedhanom or other property inherited from its mother, the same reverts to the mother's nearest relations, and not to the father of the child as is generally the case with regard to other forms of property. The feeling of the community is so strong on this point that it would be practically impossible to induce them to accept an innovation in the matter. They say that the custom has been obtaining in the community for several

LIBRARY ARCHIVES Kerala Legislative Assembly

centuries, and that any change made would materially affect the welfare of the community as a whole. The case of a minor inheriting the property of its mother is too frequent to be left out of account.

The Very Rev. Ipe Thoma Kathanar, in his able memorandum, has devoted pages 10 this subject, and has shown successfully by unimpeachable evidence that, in the matter of property inherited by a minor from its mother, the rule that obtains among the most important and the largest of the Christian communities is as stated in the amendment proposed by Mr. T. K. Velu Pillai. The Select Committee including myself reported that it would be wrong on principle to accept the above suggestion. You will admit that we are not now legislating for an ideal community which is to come into existence only hereafter. We are, on the other hand, legislating for a community the major portion of which has been following a system of law from generation to generation ; and it is too late now to say that the rule of succession that they are following is wrong on principle. Of course, if the law is intended for an ideal or, for the matter of that, a recent community, the argument advanced against deviating from the general principle, would have had some force. The British Indian Succession Act was passed for a community which was only coming into existence at the time, *viz.*, the Indian Christians. The American Succession Act, on which the Indian Succession Act was based, was passed also for a new country and for a new people. But in the case of a people that have been following a system of law for years together, it is absurd to say that, because the rule of succession followed by them from time immemorial is wrong on principle, that rule should not be given legislative recognition. Nobody states that the rule in question is against morals or contrary to public policy. It is a well-known principle that a legislator need not always conform to known principles or rules of law. He may not only amend but also reverse a rule of law.

It may be said by the opposition that there is no custom in existence as suggested. To those that say so, I have only to say that they have not gone through all the evidence on the subject. Even after the report of the Select Committee which, in the main, has been gladly accepted by the community, the opposition centered round more on this question than on anything else. For example, see (1) the petition from the Christian inhabitants of Omallur and other pakuthies in the Chengannur taluk, para. 1 ; (2) the petition from the Christian Members of the 11th Session of the Popular Assembly ; (3) the petition from His Grace the Most Rev. Mar Dionysius, and the other Bishops of the Syrian Arch-Diocese of Malankara ; (4) petition from Dr. Aloysious Pazhaya Parambil, Bishop and Vicar Apostolic of Ernakulam ; (5) memorial from the Christian Graduates resident in Trivandrum ; (6) petition from the Rt. Rev. Dr. Thomas Kurialacherry, Bishop and Vicar Apostolic of Changanachery ; (7 printed memorial signed by the Syrian Christians from various parts of the State, para. 45 thereof.

In fact, in all the memorials submitted to the Council after the report of the Select Committee, prominence is given to the amendments suggested by Mr. T. K. Velu Pillai.

The question of inheritance of Streedhanom property has often been a matter of dispute between rival claimants. In the case of property of heiresses who die leaving a minor child to inherit the property, the question assumes a still wider aspect. By the accident of the child dying, say an hour or so after the mother, the property must revert to the father and his heirs if Section 13 is left as it is. This is certainly not desirable. It is contrary to our long-established usages.

I will illustrate my point by citing two hypothetical, yet not at all improbable, cases. A, a father, bequeaths all his properties to B, his only child, a daughter. B marries C. A, B, and C all live in the same house, together with the mother of B. After a time B is delivered of a child, and a few hours after delivery, she dies leaving the child just born the sole owner of her property. Let us suppose that the child dies the next day. Now on whom does the property devolve ? On C, the father of the child of course, according to the present Section. C, by a mere accident, becomes the sole owner of the property earned by A and bequeathed by him to his daughter out of paternal love, and A and his wife have to depend upon the bounty of his quondam son-in-law for their daily bread. Suppose that C now takes it into his head to tie his purse-string very tight and also to drive the "strangers" out of his house. Imagine, Sir, the plight of the old man. The property he earned by the sweat of his brow, and the house he built for him and his, are in the possession and ownership of a mere stranger, and himself and his partner in life are to wander about in the streets, friendless, pennyless and houseless, while an ungrateful stranger revels in luxury with the money he got by the merest accident of accidents. I am sure this Council will not be a party to inflict such a hardship on any member of a society quite against his wishes. On the other hand, if the rule is amended as proposed by my friend, the old father as the nearest maternal relation will again be in possession of his

LIBRARY ARCHIVES Kerala Legislative Assembly

property which he can enjoy in his old age and dispose of again as he pleases. Surely this is how it ought to be, and I assure this Honorable Council that this has been the immemorial custom followed by the old Syrians.

I will cite another case which will show how beneficial the results of the rule will be, if it is amended as proposed by my friend. Suppose A, a very rich heiress, dies leaving B, a minor child, on whom devolves the whole property of A as A's only son and heir. C, the father of the minor, at once becomes his guardian and the manager of his property. Suppose C then marries a second wife. The step-mother naturally becomes the lady of the house and the guardian, in fact, of the minor. We all know about the proverbial step-motherly affection. If the law be as it is in the existing Section, ten to one, she will see to it that the minor dies before attaining majority, for in that case her husband, and through him, her own children and herself will become the sole-owners of the properties belonging to the minor. If, on the other hand, it is amended as proposed, even the step-mother will have to properly look after the minor, for she and her children can enjoy the properties of the minor during his minority, only if it does not die.

I therefore appeal to the good sense of the Honorable Council as to the reasonableness and expediency of the amendment proposed, and request the Council to vote in favour of the amendment. When a customary usage is clear and definite and considered by the majority of the members of the community as beneficial to the interests of the community, I think it is not at all right on the part of the Legislature to go against their wishes and interfere with the usage on the plea that the custom does not conform to any particular rule of law."

Mr. Subba Aiyar, in opposing the amendment moved by Mr. Velu Pillai, said :—

"I oppose the amendment. This amendment was considered by the Select Committee in all its aspects, and the members of the Select Committee including Mr. Varkki were against it. If I understand the amendment aright, a difference is sought to be made between a minor and a major so far as succession is concerned. It is not suggested that property inherited through a mother should have a different line of succession from the one inherited through the father. Nor is it contended that Streedhanom property inherited by a person should in all cases, on failure of issue, revert to the donor's family. What is contended for is that, if a woman is given Streedhanom property and dies leaving an issue, the property will, on the death of the issue if a major without lineal descendants, be inherited by the heirs of the issue, and if a minor, will revert to the donor's family. It is certainly wrong on principle to differentiate between a minor and a major so far as succession is concerned. Once we recognise this principle, it is likely to lead to absurdities. Supposing the minor issue dies leaving an issue, and that issue subsequently dies, who should get the property? In other words, from whom should succession be traced? Is it from the ancestors who got the Streedhanom, or from the issue who died last? Again, the woman getting the Streedhanom takes absolutely. She can do whatever with it. So also does the property vest on her death absolutely on her issue. If so, whence does the question of reversion to the donor's family arise? What was originally Streedhanom ceases to be such in the hands of the issue. Again, the argument as to Streedhanom cannot hold good with regard to a woman's self-acquisitions. An educated lady may follow any profession and make money. Why should her self-acquisition go to her parents in preference to her husband?

It may be suggested that, when a person is a major, he has got the power to dispose of his property, whereas it is not so in the case of a minor, and as such, a distinction ought to be made between a minor and a major. In practice, everybody knows that wills are not always resorted to by even adult persons. Many persons may die under circumstances in which they will not be in a position to make any disposition.

It is however suggested by Mr. Varkki that a father who gives the whole of his property as Streedhanom to his daughter with a hope of being maintainted by his daughter may be driven out of his house by his son-in-law the moment his grandchild dies a minor. This argument is not sound. We are not here to legislate for the indiscrete acts of a parent. If a parent, without sufficient safeguards and without reserving anything for himself, gives away everything to his daughter, he must pay the penalty for it. If, during the life-time of the parent, the daughter disposes of her property, or if the properties are sold involuntarily for her debts, can the parent prevent such alienation?

As for the other argument that a minor living with his father who has married a second wife may not be looked after properly by his father or step-mother, and that his very life may be endangered, I do not think anything need be said. It has nothing whatsoever to do with the point in question. The argument will apply even if there is no Streedhanom property. The law affords ample protection for the safety of the minor's person and relieving such father of the guardianship of the child.

LIBRARY ARCHIVES Kerala Legislative Assembly

Lastly, it cannot be said that any custom which makes the minor's property go to the maternal grandfather's family is proved to exist.

For the above reasons, I regret I am not in a position to accept the amendment."

Mr. Rengaswami Aiyengar enquired whether there was such a custom among the community as was alleged by Mr. Varkki.

Mr. Kuriyan stated that he was not sure of the existence of a custom like that among the community generally, but that he knew that there was among the Christians a general sentiment in favour of the proposed amendment, though, in his opinion, it was not quite a justifiable one. He said that, if a son-in-law could, in such cases, be treated in all respects as an adopted son, as was generally the case, he could see no reason why such son-in-law should not inherit the father-in-law's property also under certain exceptional circumstances. Mr. Kuriyan entirely agreed with Mr. Subba Aiyar in that there should not be two different lines of succession in the case of the same person, and pointed out the further difficulty in such cases in tracing the source from which the minor acquired the property. Mr. Kuriyan said that, in these circumstances, he had to oppose Mr. Veloo Pillai's motion.

Mr. Parameswaren Pillai said that he could not see the force of the argument advanced by Mr. Varkki, when it was specifically stated in Mr. Cheriyan's report that there was a generally accepted custom among the Christian community according to which no difference existed between property acquired through a female and that acquired through a male. Mr. Parameswaren Pillai was therefore against the proposed amendment.

Mr. Vieyra said that even under the existing arrangements the complaint was that it was difficult to get daughters married and that, in his opinion, the difficulty would only be accentuated if it was ruled that Streedhanom property should revert to the donor. Further, the existence of the custom itself was not sufficiently clear. Mr. Vieyra was therefore against the amendment.

Mr. Kumara Pillai said that, so far as the South Travancore Christians were concerned, the property of a minor went, according to well-established custom, in the ordinary way to the minor's paternal relations, and not to the maternal relations. He was therefore against the proposed amendment.

Mr. Sesha Aiyar said that he opposed the amendment. Under the Hindu Law, he said, the principle governing all successions was that, if the property, even Streedhanom property, descended to a male, it vested in him absolutely. He became a fresh stock of descent. There was no difference in that respect between a major and a minor in the Hindu Law, or, as for the matter of that, in any system of law known to him. He pointed out further that the High Court have ruled in 22 T. L. R., page 205, that no such custom existed, and that, even if a custom as was alleged existed, it was unreasonable. He was therefore against the proposed amendment, especially as what was wanted was a *general* law for all Christians.

Mr. Subrahmanya Aiyar doubted whether, if there was such a general custom as was alleged by Mr. Varkki, the Council would be justified in over-riding that custom and legislating on their own responsibility. He observed that, in order to legislate out an existing custom, that custom must be flagrantly unreasonable, which this was not. He added that, if the Council were satisfied from the report of the Christian Committee that the custom did not exist at all, there could of course be no objection to the proposed amendment being vetoed.

Mr. Mahadeva Aiyar observed that, in his opinion, the community would feel that a long-established custom of theirs was being set at naught, and that, such being the case, it was the duty of the Government to respect the custom. He said that it must most probably be that the Christian Committee's report on the point might not have been full, as was evidenced by the receipt of innumerable memorials in favour of the proposed amendment. He concluded that, with all respect for legal opinions, he was not for disregarding the immemorial custom of a very large portion of the Christian Community.

Mr. Velu Pillai replied that he completely agreed with Messrs. Subba Aiyar and Sesha Aiyar in regard to the legal principle which would have to be violated in accepting the amendment, but enquired whether it would be justifiable to stick to abstract legal principles alone, at the expense of the intense feeling of the community. He said that the report of the Christian Committee should not be taken as conclusive on the point, and that this view of his was supported by some of the Members of the Council who admitted that there was such a custom as was alleged by him. He therefore urged that, when once a custom was established, the Legislature must respect that custom. Mr. Velu Pillai therefore moved that his amendment be accepted by the Council.

LIBRARY ARCHIVES Kerala Legislative Assembly

Before the amendment was put to the vote, Mr. Kuriyan enquired whether it would be possible to postpone the taking of votes on the amendment, his object being to see whether, after all the other Sections of the Bill had been considered, the Members could come to some compromise in regard to the amendment under discussion.

After some further discussion, the President agreed to postpone putting the amendment to the vote till the other Sections were considered.

Section 16.

Mr. Velu Pillai moved that the words "a portion of the property equal to the share of a son" be substituted for the words "a share equal to that of a son", occurring in Section 16, and that, in the Proviso thereto, the words "the portion allotted to the widow" be substituted for the words "the widow's share", and the words "the share of a daughter" for the words "that of a daughter". His reason for the proposed amendment was that the widow was not entitled to a share in the property of the intestate, and that the word "share" in the Section would therefore be misleading.

Seconded by Mr. Varkki.

Mr. Subba Aiyar opposed the motion on the ground that it would, if adopted, affect the other heirs of the intestate injuriously. It must, he said, be possible for the latter, instead of allowing the widow to take a portion of the property in *specie*, to give her the value of it in money. Mr. Subba Aiyar was of opinion that, if the amendment was accepted, the widow might claim a definite share of the *movable* as well as the *immovable* property of the intestate, which would create great inconvenience.

The motion was put to the vote and lost.

Section 17.

Mr. Velu Pillai moved that the words "or paternal grandmother" be inserted between the words "grandfather" and "or any lineal descendents," occurring in line 2 of Section 17. Mr. Velu Pillai stated that, as per the order of succession laid down in Section 25, Group (5), paternal grandmother was given equal rights with paternal grandfather's children, and that, while the latter were specifically included in Section 17 as affecting the rights of the widow of the intestate, the grandmother was left out of consideration for no sufficient reason. Mr. Velu Pillai pointed out that, should Section 17 be left as it was, the paternal grandfather's children coexisting with the widow would limit her share to one-half, while the paternal grandmother existing under similar circumstances would not affect the widow's rights at all. This, Mr. Velu Pillai said, was a mistake, which his proposed amendment sought to rectify.

Mr. Sesha Aiyar opposed the amendment. He pointed out that Section 24 gave the widow and the mother only a life-interest in the property that either became entitled to under Section 17, while there was no such restriction in the case of the grandmother in regard to any property that she might inherit. So, the paternal grandmother coexisting with the widow or the mother would, if the amendment be adopted, limit the interest of the latter to a life-estate, while the paternal grandmother herself would take absolutely. Mr. Sesha Aiyar said that there was no justification to make the mother's position less advantageous than that of the grandmother. He was therefore against the proposed amendment.

The majority of the Council were against the amendment and it was therefore dropped.

Mr. Velu Pillai then moved that the words "his father or" be inserted between the words "of" and "such" in line 2 of the same Section, as the words seemed to be inadvertently omitted.

Seconded by Mr. Sesha Aiyar.

Mr. Subba Aiyar said that the words referred to were omitted because the lineal descendants of the father were the lineal descendants of the grandfather and that there was therefore no inadvertent omission. Mr. Subba Aiyar was however of opinion that the amendment might be adopted.

The amendment was carried accordingly.

Section 21.

Mr. Velu Pillai moved that the words "a portion of the property equal to the share of a brother" be substituted for the words "a share equal to that of a brother", occurring in line 2 of Section 21. He also moved that the words "the portion allotted to the mother" be substituted for the words "the mother's share", occurring in line 2 of the Proviso to Section 21, and that the words "the share of a daughter" be substituted for the words "that of a daughter" in line 3 thereof.

LIBRARY ARCHIVES Kerala Legislative Assembly

As the above amendments were similar to those moved by Mr. Velu Pillai to Section 16, they were rejected by the Council for reasons already stated.

Section 24.

Mr. Velu Pillai moved that the word "immovable", occurring in line 1 of Section 24, be omitted. His reason for the amendment was that, in some of the Christian families, the bulk of the property might be movable and that, if, in those cases, the widow and mother were allowed to exercise power of absolute disposal over such property, the families might eventually be ruined. He was therefore of opinion that the life-interest of the mother or the widow should be extended to movable property as well.

Mr. Varkki, in seconding Mr. Velu Pillai's motion, spoke as follows :—

"The widow and the mother have only life-interest in the intestate's property, according to the principle accepted by the Select Committee's revised Bill. By excluding "movable property", the Select Committee have, for no valid or sufficient reasons, deviated from the principle accepted by them. Their reason for this deviation is that the creation of a life-estate over movable property is unworkable. I do not at all think that it is unworkable. Movables include money in cash, jewels and other valuable articles. The dispute about movables comes in only when there are movables of considerable value. When there are movable and immovable properties alike, there will not be any difficulty in adjusting the shares without detriment to the interests of either party. As the community advances in civilisation, and as banking business becomes more and more in vogue, investments will generally take the form of deposit in cash in Banks. If the whole property of a person consists only in cash, the whole amount will go to the widow absolutely, to the exclusion of the blood relations, as long as the Section is not amended. This, I need hardly say, is against the principle advocated in the Bill, and would create heartburn among the blood relations of the deceased. The Hindu Law— the law that is followed by several millions of people in India—does not, as far as I am aware of, recognise any difference in the rights of a widow over movable and immovable properties. It is not clear why this difference is made in the case of the Indian Christian Community, although the Christian Committee who framed the original Bill did not want to create any difference between movable and immovable properties— vide Resolution 5 in Appendix A of the Committee's report. The community strongly protests against the distinction made in the Bill on the ground that it would nullify the effects of life-interest accepted by the Bill. For these reasons, I support the amendment proposed by Mr. Velu Pillai."

Mr. Subba Aiyar opposed the amendment in the following terms:—

"I oppose the amendment. The amendment proposes to create a life-estate over movable property. No doubt, under the existing law, a widow is entitled only to maintenance. It is common ground that her condition is deplorable and requires to be improved. The original Bill conferred upon her an absolute estate. This was objected to by some of the members of the community, and we thought it would be better to create a life-estate over immovable property. Life-estate itself is unknown amongst the community. There may not be any difficulty in enforcing it in the case of immovable property, but to carry it further and create one over movable property may lead to difficulties. In the first place, it is unworkable in practice. It may be said that under the Hindu Law a woman may not have absolute control over the movables. But, if a woman disposes of the movables, how to enforce the life-estate? No suit is ordinarily brought by a Hindu reversioner for restraining the disposal of the movable property by a widow.

Further, the main ground on which it is contended that a widow should not have an absolute estate is that immovable property which continued to be in the possession of the family for a long time will go out of the family into the hands of strangers. This argument cannot hold good in the case of movable property.

In limiting the life-estate to immovable property, we have only followed the English Law. Under the Statute of Distributions, a widow is entitled to one-third of her husband's personalty if he has any issue, or one-half if he has no issue. Under Common Law, she has a further claim to hold one-third of her husband's realty for her life. (Vide the Report of the Christian Committee, P. 64).

In considering this question, there is yet another matter which has to be borne in mind. Out of deference to the wishes of some of the community, a mother has been placed by the Select Committee on the same footing as a widow. Though according to the Very Revd. Ipe Thoma Kathanar, 'the genius of the Syrian Christian system does not treat the mother as a blood relation' the High Court have, by a long series of decisions extending over forty years, recognised the right of the mother. The mother is entitled to an absolute estate, and by placing her on the same

LIBRARY ARCHIVES Kerala Legislative Assembly

footing as a widow with regard to immovable property, her estate has been very much curtailed. There is absolutely no reason why her right over movable property should also be interfered with. For the above reasons, I do not think it possible to agree to the amendment and create a life-estate over movable property as well."

Mr. Rengaswami Aiyengar also opposed the amendment. He said that the object of all legislation was to minimise litigation and friction, and that the amendment, if adopted, would drag the women into the Courts. Further, there was a certain reasonableness in making the distinction between movable and immovable property. The sentimental objection that some families might have that their landed properties should not go into other hands could not hold good in respect of movables. Mr. Rengaswami Aiyengar was therefore of opinion that whatever was given to a woman should be given to her in such a way as to enable her to use it without fear of a Civil action.

Mr. Kuriyan said that the question was discussed in the Select Committee, when the lawyer Members assured him that the limited estate was a troublesome thing and that to extend the principle to movables would be absolutely unworkable. He said that it was in deference to their advice that he subscribed to the Select Committee's report. As he subsequently knew that there was a large volume of Syrian Christian opinion against the distinction, he was not in a position to express any decided opinion on the subject. He was therefore quite willing to abide by the sense of the Council.

Mr. Parameswaran Pillai said that, it it had been conceded that there was no difference between movable and immovable property, it was quite possible to give the widow and mother a definite share in both the movables and immovables, but that, it was owing to the objection that an absolute share-estate should not be given, that the Select Committee had to adopt a middle course by giving an absolute interest in movables and a life-interest in immovables. He pointed out further that it was impossible to create an effective life-interest over movable property and that, if once movables went into a person's possession, no outside control could possibly be exercised. To the Karanavans of Marumakkathayam Tharavads, absolute power was given over the movables. Mr. Parameswaran Pillai was therefore against the proposed amendment.

Mr. Sesha Aiyar said that the principle of life-estate was an unmitigated nuisance, and that the bulk of litigation under the Hindu Law was due to it. If, as was stated, it was as a compromise that life-estate was given, he would never extend it to movables, because the less of that nuisance the community had, the better it was for them. Mr. Sesha Aiyar was therefore against the amendment.

Mr. Kumara Pillai also expressed himself against the amendment.

Mr. Velu Pillai replied that he was not convinced by the arguments of the other Members, and that there was no analogy between the Karanavan of a Nair family and the widow or mother of a Syrian Christian family. He said that, if the amendment was not adopted, several Christian families would be impoverished.

The motion was put to the vote and lost.

Section 25—Group (5).

Mr. Velu Pillai moved that Group (5) of Section 25 be recast as follows:—

Group (5). "Paternal grandfather's children, including such of those as shall have predeceased the intestate, leaving lineal descendants, without prejudice to the rights of the paternal grandmother as widow of the grandfather."

Mr. Velu Pillai's reason for the amendment was that the only right that the grandmother should have must be one to a limited estate as the *widow* of the grandfather, just as the limited estate given to the widow and mother of the intestate himself.

Seconded by Mr. Varkki.

Mr. Subba Aiyar opposed the amendment, for the reason that the limited estate of the widow or the mother applied only to property taken under Sections 16, 17, 21, and 22 and that both of them took an absolute estate under Sections 18 and 23. In other words, in the absence of nearer heirs up to four degrees, the widow or the mother took the estate absolutely. When the property went to the grandmother, no limitation was necessary to be reserved in favour of any one, for she took only after the father's descendants, the grandfather himself, and after the widow and after the mother.

Messrs. Kuriyan and Rengaswami Aiyengar also expressed themselves against the amendment.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Parameswaran Pillai said that it was only when the mother and widow coexisted with the admittedly nearer heirs that the former took a limited estate, while, in the absence of such heirs, both of them took absolutely. And as the grandmother took only in the absence of a group of sharers, which itself was a very remote contingency, Mr. Parameswaran Pillai did not hink it necessary to render her estate a limited one. He was therefore against the proposed amendment.

Mr. Vieyra said that he would adhere to the Select Committee's report.

Mr. Velu Pillai's motion was put to the vote and lost.

Section 25—Group (8).

Mr. Velu Pillai moved that Group (8) of Section 25 be altered as follows:—

Group (8). "Maternal grandfather's children, including such of those as shall have predeceased the intestate, leaving lineal descendants, without prejudice to the rights of the maternal grandmother as widow of the grandfather."

As this amendment stood on the same footing as the one proposed by Mr. Velu Pillai to Section 25 Group (5), the Council rejected the same for reasons similar to those referred to supra.

At this stage, as it was 4·55 P. M., the Council adjourned to meet again the next day.

The Council met again at 12 noon on the following day. All the Members who were present the preceding day attended, and the consideration of the Christian Succession Bill was resumed.

The President drew the attention of the Council to the fact that a large number of petitions had been received from Syrian Christians protesting against the order of succession prescribed in Section 25, as it did not, according to the custom obtaining among the Syrian Christians, postpone the maternal relations to the paternal relations up to the seventh degree. The Council considered this suggestion, but were of opinion that it should not be accepted, firstly, because there was no such difference between maternal and paternal relations among the other communities, and secondly, because the chances of the great-grandfather inheriting the property of the intestate were too remote to deserve consideration.

Section 28—Para. 1.

Mr. Sesha Aiyar pointed out that it would seem from the first para. of Section 28 as it stood that the privilege of dividing the property of the intestate, after satisfying the claims of the daughters for Streedhanom, vested only in the *sons* of the deceased and that it did not belong to the male lineal descendants of such sons, while in fact it belonged to the latter also. He therefore suggested that the addition of some such expression as "and the male decendants of such sons" was necessary after the word "sons" in line 1 of that para.

Mr. Parameswaran Pillai thereupon moved that the words "male heirs mentioned" be substituted for the word "sons", occurring in line 1 of para. 1 of Section 28.

Seconded by Mr. Sesha Aiyar.

Carried.

Section 28—Para. 2.

The President informed the Council that a large number of petitions had been received from the Syrian Christians, suggesting that the second para. of Section 28, fixing the limit of the Streedhanom to be given to a daughter, might well be omitted, as the object of the provision was to give to the daughter rights similar to those of the son.

Mr. Subba Aiyar said that the object of the petitioners was that the amount of the Streedhanom should be fixed, not by an express provision of the law, but by themselves, *i. e.*, for example, by a Yogam consisting of the paternal and maternal relations, the head of the Church, etc., and that the decision of such a Yogam must be binding legally on the parties.

Mr. Subrahmanya Aiyar stated that, on principle, he was against any legislation that would make a difference between boys and girls in the matter of their rights to ancestral property. It was however different in the case of communities, in which by inviolate custom no girl was allowed to enter the physiological stage known as puberty without having been previously absorbed into another family through marriage. The Christians not being a community of that kind, the question for consideration was whether marriage for every woman at some age or other was, though not always enforced in practice, at least accepted as the ideal for attainment. If it be so, Mr. Subrahmanya Aiyar would not advise any legislation being undertaken

LIBRARY ARCHIVES Kerala Legislative Assembly

that would have the effect, however indirect or remote, of enabling or encouraging unmarried life for women. Ordinarily speaking, he said that, to give a woman a legal right to property, call it share or *Streedhanom*, must have that effect in a community where marriage was not compulsory, and especially in these days when women found difficulty in getting suitably married. If, in the opinion of the Council, however, the sense of duty to one's own woman-kind now-a-days or the force of social obligation, either in the matter of marrying them well or maintaining them decently, should they remain unmarried, was so feeble, at least in an appreciable number of cases as to make a legal provision inevitable, the Section under discussion would have to stand. But personally he doubted, though he might be wrong, whether the necessity had yet arrived.

Mr. Kuriyan said that he would omit "Rs. 5,000" from the Section, thus giving the daughter the one-fourth share, even if it exceeded Rs. 5,000. He said that the object in view in fixing a limit to Streedhanom was to arrest the tendency of the amount of dowry to increase day by day. But, for his part, he would attribute that tendency to the fact that men could choose to remain unmarried for any length of time while the women could not, and, if the Legislature fixed a limit, it would have to periodically revise it. Mr. Kuriyan, thought that the Legislature would be going beyond its rights if it fixed a limit to the prosperity of girls, which must be allowed to depend on the individual assets of their parents. Mr. Kuriyan was therefore against the fixing of any limit to Streedhanom, except the one-fourth share of the son which was based on the evidence of the witnesses.

Mr. Varkki was also for the omission of the monetary limit.

Mr. Subba Aiyar said that he agreed with Mr. Kuriyan but that he doubted whether, by accepting Mr. Kuriyan's opinion, the Council would not be acting against the *general* sense of the community as a whole. He added that there was no formal motion for the amendment before the Council.

Mr. Subrahmanya Aiyar was of opinion that, if the Section should be retained, the limitation should be there.

Mr. Rengaswami Aiyengar was for the fixing of some limit, but thought that the limit might be raised to Rs. 10,000.

Mr. Vieyra was for retaining the Section as it was.

After considerable discussion, the Council resolved to leave the Section as it was.

Section 28—Para 3.

Mr. Velu Pillai moved that the Proviso to Section 33 might be more logically added to the third paragraph of Section 28, especially as he was going to move the omission of Section 33 itself.

The Council resolved to consider Mr. Velu Pillai's motion after Section 33 was considered.

Section. 32.

Mr. Velu Pillai moved that Section 32 be omitted as it was superfluous. He said that no specific provision of law was required in order that the property of an intestate might go to the Crown in default of all kindred. It was a custom all along recognised, and a declaration thereof found no place in any other Regulation.

Mr. Vieyra observed that, in the absence of kindred, a portion of the property went to the Church according to the custom of the Christian community. He said that the provision was therefore very necessary.

The motion fell through for want of a seconder.

Section 33.

Mr. Velu Pillai moved that Section 33 also be omitted. He said that the Bill dealt only with intestate succession, and that therefore it should not be made to affect the dispositions of an intestate made during his life-time.

Mr. Varkki, in seconding Mr. Velu Pillai, said that the Section would create a good deal of confusion and trouble, and that it would be better to leave the matter to the good sense of the parties concerned than to lay down any hard and fast rule on a subject which in his opinion called for no legislative interference.

Mr. Subba Aiyar opposed the motion. He said that, though the theory of advancement was admitted in the English Law, it had been found very inconvenient so far as India was concerned. If the Section were omitted, it might lead to the difficulty that whatever benefit a particular person had derived during the intestate's life-time would have to be ascertained and valued in determining his share, creating in effect unnecessary complications in the estate, which the intestate could have given away to anybody he liked. Mr. Subba Aiyar added that the Section

LIBRARY ARCHIVES Kerala Legislative Assembly

should on no account be omitted at this stage, *i. e.*, after the Select Committee's report, as such omission might lead to the impression that the Legislature intended to follow the English law of advancement.

Mr. Velu Pillai then withdrew the amendment.

Mr. Velu Pillai also withdrew the motion made by him previously, that the Proviso to Section 33 be added to the third paragraph of Section 28, as Section 33 was to be retained.

Section 33—Proviso.

Mr. Sesha Aiyar pointed out that the Proviso to Section 33 conflicted with the provision contained in the third paragraph of Section 28, in that, while under the latter Section, if the daughter had already received Streedhanom from the father or mother, she could not claim any share of the estate, the former clearly laid down that she could do so if the amount of the Streedhanom that she had received did not amount to the share that she was entitled to.

Mr. Subba Aiyar said that the Proviso to Section 33 applied only to cases in which the daughter could claim a share in addition to her Streedhanom, and that there was therefore no conflict between the two Sections.

Mr. Sesha Aiyar thereupon moved that, in order to make the intended meaning clear, the words "subject to the provisions of para. 3 of Section 28" be added between the words "that" and "any" in line 1 of the Proviso to Section 33.

Seconded by Mr. Subba Aiyar.
Carried.

Section 34.

Mr. Velu Pillai moved that Section 34 be dropped, as there was no necessity for providing a special period of limitation for the recovery of dowry by females. He said that the feeling in all advanced communities was that the rights of women should be protected and, if possible, extended, and that the ordinary period of limitation should not therefore be reduced in the case of females.

Mr. Varkki, in seconding Mr. Velu Pillai's motion, said that Streedhanom, which included ornaments, was, as a matter of fact, given to the daughter in some cases only at the time of the family partition or after the birth of a child, and that ornaments for the child could not, in any case, be claimed before its birth. The special period of limitation would therefore work hardship to the persons concerned without any adequate benefit to others, except perhaps to those brothers who wanted to injure their sisters. Mr. Varkki was also of opinion that it might increase litigation by compelling people to go to law within a limited time.

Mr. Subba Aiyar replied that it was with a view to minimising litigation that the Section was put in. For example, if a woman had received Streedhanom, the other members, if the Section were omitted, would have to wait for twelve years to see whether she was going to dispute its adequacy. It was therefore in the interests of the girl and the family and those persons who would enter into transactions with them that a shorter period of limitation was prescribed. Mr. Subba Aiyar further pointed out that the Section only provided for cases where a woman was entitled to sue *after receiving Streedhanom*. But if the Council thought that the Section would work hardship, Mr. Subba Aiyar had no objection to drop it.

After some further discussion, the amendment was carried by a majority.

Section 30.

Mr. Velu Pillai moved that, since Section 34 was dropped, the words "and 34", occurring between "29" and "shall" in line 1 of Section 30, be deleted, and that the word "and" be added before the figure "29" in the same line.

Seconded by Mr. Subba Aiyar.
Carried.

Section 13.

Before taking the sense of the Council on Mr. Velu Pillai's motion, *viz.*, that an Exception, as suggested by him, be added to Section 13, the President said that, the Government were not at all particular that the amendment should be rejected, and that they would accept the opinion of the majority of the Council. Votes were then taken. Mr. Mahadeva Aiyar alone was in favour of the motion, and Messrs. Subrahmanya Aiyar and Rengaswami Aiyengar remained neutral. The Majority were against the motion, and it therefore fell through.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the Bill, as amended by the Council, be read again on a future day of which notice should be given.

Seconded by Mr. Vieyra.
Carried.

LIBRARY ARCHIVES Kerala Legislative Assembly

THE CRIMINAL TRIBES BILL.

With regard to this Bill, the President observed that his attention had been lately drawn to the difficulties experienced by the authorities in working the provisions of the British Act in the Madura District. He expressed doubts as to the absolute necessity for such a law in Travancore, and added that the present Commissioner of Police had to be consulted. The President also said that there was at any rate, no need to rush the measure through, and he suggested that its consideration be postponed.

The Council adopted the President's suggestion.

THE GLANDERS AND FARCY BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Glanders and Farcy Bill, and moved that the Bill be taken up for consideration at once.

Seconded by Mr. Mahadeva Aiyar.

Carried.

When the consideration of the Bill was over, Mr. Subba Aiyar moved that the Bill might be read again on a future day of which notice should be given.

Seconded by Mr. Vieyra.

Carried.

The Council adjourned at 3-50 P. M.

M. KRISHNAN NAIR.
President

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